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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/830,005

04/21/2001

Phillip G. Spaniol

FT0002R

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02/03/2010

LAW OFFICES OF KEVIN D. KASCHKE, LTD.
3105 KING ALFORD COURT
SAINT CHARLES, IL 60174

EXAMINER

UNDERWOOD, DONALD W

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

02/03/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/830,005	Applicant(s) SPANIOL ET AL.	
	Examiner Donald Underwood	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/09/10.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-103 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 61-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The drawings are objected to under 37CFR1.84. Particularly, the drawings are not readable and the characters do not have satisfactory reproduction characteristics. For examples see figures , 2, 125 and 126. Correction is required. The introduction of new matter should be guarded against. This objection was first set forth in the Office action mailed 04/05/05. Applicants response filed 10/11/05 contained new drawings. These drawings were not approved. They appear to contain new matter. For example note numerals 178 and 176 added to new figure 2 do not appear in original figure 2. Applicants filed 5 sheets of drawings on 12/27/06 but did not address the new matter noted above. See the Office action mailed 12/27/06. Applicants filed 5 sheets of drawings on 07/02/07. These drawing were marked replacement sheets but applicants set forth in their remarks that these drawings were annotated sheets. Applicants should address the new matter issue noted above and indicate which drawings they believe are present in this application. In addition the drawings are objected to under 37CFR1.83 as failing to show and label a memory unit. See claim 67. Correction is required.

The amendment to the specification and the Abstract are deemed to contain new matter. The new matter is the addition of an anticipated time and anticipated location. Note the 112 first paragraph rejection set forth below. Further the instruction for the insertion of the summary amendment is unclear since there is no section in the specification labeled "Summary". These amendments should be deleted.

A further review of claims 61 and 62 presented for the first time in the petition filed 02/02/09 and claims 63-103 presented for the first time in the amendment filed

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11/09/10 reveal they contain material that was presented in the amendment filed 09/02/03. See claim 60 filed 09/02/03. This material does not appear to have a basis in the original written description and gives rise to the following action. The propriety of a restriction requirement will be revisited upon addressing the following rejection.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 61-103 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The inclusion of a controller adapted to determine an anticipated time and an anticipated location at the anticipated time and a method determining same do not appear to have support in the original written description (claims 61, 63, 67, 72, 86, 90, 92, 102 and 103).

The generation of crop level information does not appear to have a basis in the original written description (claims 65, 66, 88 and 89). The original written description supports crop information but not crop level information.

The detailed written description does not support a memory unit to store field map information, locating information, locating the memory unit on the machine or

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remote from the machine, an operator display carried by the machine and information displayed (claims 67, 68, 69, 70, 72, 73, 75, 90, 91, 92, 93 and 95).

The original written description does not support the harvester being a grain harvester (claim 80).

The original written description does not provide use of a second agricultural machine, a transfer from a first machine to a second machine, a vehicle and trailer, the second machine adapted to travel to the anticipated location of the first machine much less at the anticipated time (claims 81-85 and 98-101).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 66 and 89 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "the harvester agricultural crop level information" in each claim lacks a clear antecedent basis.

In summary, the basis for each element noted above in the 112 first paragraph rejection must be set forth by applicants. This should be done by reference to specific pages and line numbers in the original disclosure. This is needed in view of the length and complexity of applicants' invention. Applicants are reminded of their election filed 12/18/03. This election must be maintained. Upon receipt of a response to the above rejection the restriction will be revisited.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald Underwood/
Primary Examiner, Art Unit 3652

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